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REMINISCENCES OF JUDGE EDWIN WALLER.¹

P. E. PEARESON.

Author's Introductory Note.

This is but the "short and simple annal" of one of the early settlers of Texas, and of some of the scenes of her early history. It is written almost as it fell from the lips of an eye-witness of all therein described, and is offered as a leaf in the volume which will some day exist of the deeds of our Texas pioneers. As it has no other object, the simple statement of that fact is all the apology it requires.

RICHMOND, November 18, 1873.

"The broken soldier . . .
Sat by his fire and talked the night away,
Wept o'er his wounds, or tales of sorrow done,
Shoulder'd his crutch and show'd how fields were won."
—*Goldsmith.*

Exactions by the government, in the shape of duties and taxes from the governed, have ever been seed for revolt and revolution. We need not go beyond the American continent for authority to sustain this assertion. Unequal taxation and unjust duties germinated the revolution of 1775, the first budding of which was the famous Tea Riot in Boston Harbor. To this there is a striking analogy in the conception of that revolution which separated Texas from Mexico—a revolution which, comparing the men and means engaged, with the grand results, is almost without a parallel, and which, by a king of Cæsarian operation, as it were, tore from the body of the effete maternal nationality Mexico, the blooming child Texas, and placed it as a young republic in the western world. Velasco was the Boston Harbor of the Texas Revolution, and the scene of the first chapter in its history. There, too, taxes and duties, unjustly demanded by the government, were the cause of the *émeute*.

¹This is a reprint of a pamphlet under the title, *Sketch of the Life of Judge Edwin Waller*, published at the Galveston News office in 1874, but which has become very rare. Who the eye-witness referred to was, cannot now be stated, but it is hoped the information may be given in a later number.—EDITOR QUARTERLY.

In 1832 Velasco was a Mexican post, garrisoned by near two hundred and fifty men, who were in a fort of circular form, having in the center a mound or raised plateau of earth, whereon the artillery was placed *en barbette*, so as to fire over the outer wall, and command a range on every side. This outer wall was surrounded by a fosse or ditch, and perhaps with something intended for *cheveaux-de-frise* or abattis. There were at that time several vessels trading between Velasco and New Orleans, which were engaged in exporting home articles and bringing in supplies to barter for Mexican bars of silver and other articles. Among these vessels was the "Sabine," which carried out the first cotton ever raised in Gulf Prairie, produced by Westall and McNeil, and was owned by Edwin Waller, then a young man, native of Virginia, who had visited Texas for his health. Up to this year no duties or customs had been demanded from persons engaged in this trade by government officials, but it coming to their ears that the commerce was becoming profitable their attention was aroused, and the commander of the Velasco fort notified the captain of the Sabine, Jerry Brown, that he must pay certain duties, and procure a clearance for his vessel from Colonel Bradburn, then commanding at Anahuac, before he would be allowed to sail. This was demanding impossibilities, as there was no land communication with Anahuac, and the embargo thus laid prevented intercourse by water. Captain Brown reported this state of facts to Edwin Waller, the vessel's owner, who in company with Wm. H. Wharton visited the commanding officer, and offered to pay him a duty of fifty dollars, for permission for his vessel to leave. The official demanded one hundred dollars for the privilege, and this Mr. Waller refused, seeing the intention of the officer to blackmail him, and believing that to yield would be but to pave the way for future extortions. After speaking this opinion to the officer with more emphasis than deference, Waller retired, to consider upon the situation. Finally, he persuaded Captain Brown to agree to "run the blockade," and accordingly the plan was arranged to protect the vessel as well as might be, with cotton bales, that the sailors should hoist sail, the passengers to go below into the "hold" and that thereupon Wharton would unloose one fastening of the boat, and Waller the other, simultaneously, to give her as fair a start as possible. All of which was accordingly done, and the first "overt act" of resistance to Mex-

ican authority was committed by Mr. Waller's vessel sailing boldly past the nose of the fort, outward bound.

The sight of this daring violation of his orders excited the Mexican commander to vigorous action, and, forming his garrison on the bank of the river, he opened a fusilade upon the defiant craft, which did damage only to her rigging. Inspired by this sight, another vessel lying higher up the river, and commanded by Captain Fuller, set sail to follow in the wake of the Sabine, which, now being out of range of small arms, was seen crowded with passengers on deck, huzzaing and shouting in derision and triumph, among them one lady, a Mrs. Sweet, the sister of Samuel M. Williams. This so inflamed the Mexicans that they turned on Captain Fuller's vessel, and opened on her a heavy fire. Before the vessel passed out of range a shot from the Mexicans struck the tiller or helm held by Captain Fuller, wounding him; he immediately called for his rifle, intending to return the salute, when a young man, Spencer Jack, the uncle of Thomas M. Jack, of Galveston, asked leave to fire the gun, and did so with good effect, as he wounded a Mexican in the thigh. This worthy set up such a howl of pain and fright that his comrades ceased firing and gathered in disorder around him, under which diversion Captain Fuller sailed quietly on his victorious way. The ball being extracted from the limb of the fallen hero by an American (one Dr. Robinson, hereinafter named), and the wound proving slight, the warlike ardor of the Mexicans revived, and they at once arrested as the originators of this bold disobedience Colonel Wharton and Edwin Waller, and conducted them as prisoners inside the fort. Colonel Wharton, with characteristic sagacity and talent, soon argued himself out of limbo, but Mr. Waller proving more obdurate, the insulted commander sentenced him to be sent to Matamoras, to the tender mercies of the authorities there. After much trouble, and principally through the aid of Colonel Wharton, many good promises being exacted, Mr. Waller was finally and reluctantly released, and a hollow truce prevailed for a season.

When the Sabine sailed, Captain Brown was ordered by Mr. Waller to invest the proceeds of her cargo in two cannons, and to bring them back on the return trip for retaliation upon the fort in case of any hostile demonstration. The cannons did come, though too late to do duty at the storming of Velasco, and being dedicated to the

service of the cause, were placed on board a vessel which cruised out after war was declared, as one of the first men of war of the Texas navy, but never returned again to report her deeds. Neither ship, crew nor cannons were ever heard of again, and their fate is unknown.

This occurrence was really the detonating spark which fired the train of revolution; this was the capstone to the arch of national feeling which had been gradually growing in the minds of the American settlers; this was, in fact, the bud of the Texas revolution, as Boston had been before of the revolt—the secession from England. The desire to resist Mexican authority was here aroused by the belief that it could be done successfully. “The first gun” sounded when young Jack fired and wounded the Mexican soldier.

Soon after this, a meeting of citizens was held at Brazoria, with Col. Wm. H. Wharton as chairman, and he earnestly advised decided measures, arguing that the spirit of strife had already been aroused; that Colonel Bradburn had confined American citizens unjustly at Anahuac; that the citizens, headed by Col. Frank Johnson, who had gone thither to demand their release, had failed to obtain it, and had met an unfriendly reception; that Spencer Jack had shot a regular soldier of the Mexican army, while in the discharge of his duty; that the people on both sides were excited; and that it would be better for them (the citizens), by a bold move to swoop down at once upon Velasco and storm and capture the fort and garrison, and so rid the section of Mexican authority. There was considerable debate upon this proposition, and the meeting finally agreed that the chairman should appoint a committee of five, a majority of whom should decide the issue of war or inaction. Colonel Wharton appointed as that committee Edwin Waller, W. J. Russell, Thos. Westall, J. W. Cloud (a clergyman), and — McNeil. These retired to deliberate on their verdict, and their first ballot showed Waller and Russell for war and the other three opposed it. Waller and Russell at length converted the clergyman to their faith and finally the committee became unanimous and announced to the people that their “voice was for open war.” The forces then assembled with Col. John Austin in command, and Henry Brown, a gallant officer and the father of the present John Henry Brown, as second in command, and this embryo “army of the republic” took up their line of march, about one hundred and twenty strong.

When we reflect that they were about to attack twice their number of well armed and well disciplined soldiers, heavily entrenched, and backed by the great Mexican nation, we cannot but admire their calm restlessness and cool effrontery. No doubt they trusted that Providence would enable them to give Mexico some reasonable excuse for thus attacking one of her forts, and that the chapter of accidents would aid them in capturing the fort, but still there was as much dashing courage and steady fortitude in the attempt as animated any *beau sabreur* who charged with the Light Brigade at Bloody Balaklava. It was purely sublime.

The "army" proceeded as far as Brown's landing, and there halting sent a "committee of invitation" to the commander of the fort with the modest request that he should immediately surrender his post and garrison to the invaders. The Colonel replied that "army regulations" demanded of him some show of resistance, but that after firing a few rounds on the assaulters he would gracefully surrender. From the *denouement* we are inclined to think this reply a piece of grim humor on the Colonel's part, and an ironical reply to the moderate demands of the rebels.

The besiegers then moved down, arriving at the fort about ten o'clock at night, carrying planks and spades wherewith to throw up a breastwork. The order was to move up to within thirty paces of the fort and thereby get out of the range of the cannon, which could not be depressed sufficiently to cover ground so near, and the men, if discovered and fired on, were not to return the fire, but to proceed with all haste to set up the planks and throw up sand against them, so forming entrenchments, and then to await the arrival of morning and the schooner *Brazoria*. The latter was mustered in as a "gun boat" with two small pieces of ordnance, and commanded by W. J. Russell, now of Fayette county. This vessel was a New Orleans trading boat, and was impressed by the revolutionists for war purposes, her commander, Captain Roland, an Englishman, being friendly to their cause, but fearing to risk the vessel voluntarily. In the engagement following, the mate of this vessel, while sitting in the cabin, making cartridges by order of Captain W. J. Russell, commander, between Andrew Mills, a brother of Robert Mills, of Galveston, and then prominent as a revolutionist, and Theodore Bennett, was killed, a ball from the fort passing through his body, and was the only person on board seriously hurt.

The night was not dark enough to conceal the attacking forces, and they had just put their planks in position when the garrison discovered and fired on them. Contrary to orders, the fire was returned by one of Colonel Austin's party, one Robinson, before alluded to, and at once the firing became general. It may be said here of Robinson, who it seems was rather fond of the *oleum frumenti*, that his wife bitterly opposed his joining the volunteers, and in her irritation at his obstinacy on this head, she expressed the hope that the Mexicans might shoot him. Strangely enough he was perhaps the first Texan killed on the occasion. The fight continued fiercely through the night, and nearly every ball from the fort perforated the planks protecting the Texans, scattering splinters in all directions, and thus wounding many. Among others Colonel (then Captain) Robert H. Williams, of Matagorda, lost an eye from a splinter.

By daylight many of the attacking party were disabled, the guns of many more were clogged up, their ammunition was failing, and, to use the expression of a brave participant, they were "right badly used up." More than one of them, too, had "limbered to the rear" for safety, without "standing on the order of his going." Colonel Munson, the father of the present Judge Munson, of Brazoria, and Thos. Westall, had charge of the guard to "keep up stragglers," and by their coolness and steadiness rendered great service in the engagement.

The fort "flashed its red artillery" for a space, but the Texan riflemen soon silenced most of the guns. Their terrible precision so intimidated the enemy that they dared not stand by their pieces, but sponged and loaded lying flat on their backs under the guns. Even this plan was finally abandoned, for the unerring marksmen shot them in the hands and arms. The gallant war craft "pounded away" with her two pieces, but was unable to do perfect execution from the relative position of the combatants, and the fact that her principal ammunition was "trace chains," which, though generally useful, were not exactly suited to that purpose.

The work was principally done by small arms, and noticeable in the garrison was a company commanded by a German, which was posted in the ditch outside the fort. This detachment did earnest work, and finally, being out of ammunition, the officer ordered a

detail into the fort for more. To this the courage of his men was unequal, as in going into the fort they must necessarily be exposed to the deadly fire of the rifles. Enraged at their cowardice, the officer himself made the attempt, but fell almost the instant he exposed his body. This terrified the company, and they communicated the countersign to the fort, and then amid the wild huzzas of the patriots the white flag fluttered from the fort.

“And the red field was won.”

In the battle Edwin Waller was wounded in the head, and it is probable that his life was saved by his having tied around his brow a thickly twisted handkerchief, which turned or deadened the force of the bullet, but the concussion gave him a painful bruise and a pair of black eyes for several days after. Among others killed and wounded are remembered several from Matagorda county, a detachment having joined the Texans from that county, organized by S. B. Buckner and Robert H. Williams, the former of whom was killed and the latter wounded, losing an eye as already stated.

The garrison, after their surrender, were allowed to retain their side-arms and personal property, and some of them were sent by water to Matamoros.

This battle occurred during the supremacy of Bustamente, which was succeeded by that of Santa Anna, who, soon after his accession to power, dispatched five vessels of war, heavily laden with troops and munitions, to retake the Fort of Velasco, and to exterminate the capturers thereof.² This armament, with colors flying, and with

²The Mejía expedition. This sentence is misleading. The expedition occurred several months before Bustamente's supremacy had been overthrown. It was not despatched by Santa Anna, as the narrative here states, but was hastily organized by Mejía himself without orders from his commander-in-chief, and carried out with the approval of his immediate superior, Moctezuma. It came about in this fashion: In 1830 Bustamente, who had been vice-president of the Mexican Republic under Guerrero, and had driven the latter from the city, assumed the functions of the presidency. In January, 1832, the garrison at Vera Cruz had demanded the dismissal of Bustamente's obnoxious ministry, and had invited Santa Anna to take the lead against the Bustamente party. This declaration is called the Plan of Vera Cruz. Santa Anna accepted the invitation. In the civil war that followed, Colonel Mejía, in charge of a small force of Santa Anna's supporters, was conducting a movement against Colonel Guerra of the Bustamente party, who

grand display, sailed up and anchored off Velasco, preparatory to disembarking for the purpose of thinning out the inhabitants. This news of course soon reached the people of the country, and caused the wildest excitement. "Then there was hurrying to and fro"; the people sent runners with the tidings in every direction, and a convention was called to meet forthwith at Brazoria, to devise measures to meet the issue. The convention was held accordingly, and after deliberation, Colonel Wm. H. Wharton, as chairman of a committee, was sent down to Velasco to confer with the Mexican authorities, and endeavor to stay the threatened destruction. This gentleman, so distinguished in his day for sagacity and ability, adopted the wisest diplomacy for the hour, the plan of temporizing with the enemy, and in the interview which he held with the hostile chiefs, with all of the eloquence for which he was noted, set out the facts that the Texans had ever been loyal to the Mexican government, especially to Santa Anna; that the capture of Velasco was "only a party movement" against Bustamente, to show their deep devotion to the cause of Santa Anna; and that the whole affair originated in their admiration for him, and was but a pleasant way they adopted to show their loyalty. He welcomed the Mexicans to the country, and besought the officers to come up to Brazoria and partake of the hospitality of its patriotic people. The truth is, up to that time Santa Anna had not exhibited the objectionable features of his character, as he subsequently did, and it was generally hoped that, as President of Mexico, he would prove a decided improvement on Bustamente. The Mexican officers suffered themselves to be persuaded, and accordingly came up to Brazoria, where they were fêted and entertained in the most sumptuous manner, remaining pleased and willing guests, and finally departed, happy in the belief that the Texans were a most loyal people and Colonel Wharton a particularly warm friend of Santa Anna.

was in command at Matamoros, when the news of the disturbances in Texas led Mejía to propose, and Guerra to accept, an armistice between them until Mejía could lead his troops against the insurrectionary colonists and restore quiet. It was then supposed by these two officials that the attacks on Anahuac and Velasco were the beginning of a secession movement in Texas; but, as the story goes on to show, the fears of Mejía on this point were easily dispelled.—EDITOR QUARTERLY.

Although the officers commanding this expedition were thus blarneyed out of their savage mission by Colonel Wharton's *ruse de guerre*, yet their government was not so well deceived thereby, and in fact from the day that Edwin Waller's vessel ran the blockade and raised the embargo, and Spencer Jack wounded the Mexican soldier, there never was, between the government and the colonists any cordiality of feeling, nor anything save distrust and want of faith cloaked and hooded in pleasant speeches and empty compliments. On that day the spirit of revolution was born never to die again.

Shortly after these officers "marched up the hill and then marched down again," Almonte visited Brazoria and the surrounding country with a great flourish of trumpets and with the ostensible charitable purpose of inquiring into the needs and wants of the inhabitants; and, although he was everywhere received in the most elegant and courteous manner by the colonists, yet while interchanging compliments with his hosts he was secretly taking notes of the numbers, strength, and resources of the people, while they were as busily engaged in procuring and storing up powder and appliances of war for the "irrepressible conflict."

The first powder procured for this purpose was purchased by Wm. H. Wharton, Jno. A. Wharton, Edwin Waller, Robert Mills—all prominent and zealous "war men,"—Wm. J. Russell, and Jere Brown, and was stored away by them in a brick out-house owned by Mrs. Jane H. Long, widow of General Long, now a resident of Fort Bend county, and perhaps the earliest and oldest living settler of Texas.

There seems to have been quite a strong feeling of opposition in those days between the "war party" and the "peace party," and in the many meetings held by the people to discuss the war question, the different parties usually spoke their opinions of each other in terms the freest and most emphatic, so that in some of the stormiest of them, it really seemed that in the meeting, at least, war would certainly prevail, and that the members would commence hostile operations upon each other. Nothing serious, however, resulted from the "freedom of debate," and the meetings passed without any real violence. Among those who zealously and unwaveringly advocated the cause of war and freedom, Edwin Waller, Wm. H. Jack,

and the two Whartons, stood ever conspicuously together as firmly united politically as they were socially.

In the Consultation, as it was called, which met at San Felipe de Austin in November, 1835, and adjourned about a month afterwards,² Edwin Waller and Jno. A. Wharton were two of the delegates who represented the municipality of Columbia, and stood shoulder to shoulder in opposing the measures of Sam Houston, then member from Nacogdoches. In the first hours of the consultation, however, when Waller and others who had arrived found there was not a quorum present, and while awaiting the arrival of the Northern delegates, it was resolved by those present to form themselves into a military company, and to march westward to assist at the capture of San Antonio, which was then in Mexican hands. This was accordingly done, and the company, which Waller had joined, enrolled under Stephen F. Austin, who afterwards left the command to Wm. B. Travis, familiarly known as Buck Travis, who, with a small force, was then encamped on the Salado. While encamped here the enemy sallied out and attacked Austin's little army, but the sortie was handsomely repulsed, and so the warlike delegates had the honor of participating in the first battle fought in Western Texas, and of returning to their legislative labors crowned with the laurels of military conquerors. The army stationed here felt the necessity of some legislative action, and of the formation of some government under whose flag to fight, and which should procure for the troops the necessary supplies and munitions. Accordingly, they assembled soon after this battle, and by vote decided that the delegates should return to the Consultation. It is related as a reminiscence of the day that but one man voted against the return of the delegates—so greatly was felt the necessity of establishing a government—and that man was soundly thrashed by Frank Adams for entertaining such an opinion. The delegates did return, met there the delegates from Northern Texas, and formed the provisional government. It is worthy of note that all four of the delegates from Columbia voted in the Consultation for independence,

²The meeting had been called for October 15. The delegates, however, did not assemble till the 16th, and on the 17th, for want of a quorum, they adjourned to November 1, when the regular session began. The Consultation adjourned finally November 14.—EDITOR QUARTERLY.

upon which occasion Edwin Waller, being a prominent and untiring advocate of that measure, was told by General Houston in a speech that he and his colleagues would "find grapevines awaiting them at home," as a reward for their course on this occasion. The prophecy was doomed to be proven false by the vote of the same constituency by whom Edwin Waller was afterwards returned as a member of the Convention of 1836, where he was one of the committee which framed the constitution of Texas as a republic, and his name stands third on the list of the signers of that document. That of itself will hand his name down to posterity, for certainly the intellects which in that day, under the surrounding difficulties, conceived and prepared such a code of organic law as that constitution are as much distinguished in their field of labor even as those who died on the ramparts of the Alamo, or the plains of San Jacinto. The cool wisdom of the one is only equalled by the brilliant courage of the other, and as there were heroes in the field, so there were statesmen in the cabinet to set the young ship of State afloat on the tide.

We can not do more in this modest little sketch than allude to these services of Mr. Waller, which distinguished him among his compeers as an able man and a fervent patriot, ever ready with pen or rifle to aid the cause of his adopted land. On the completion of his duties by the adjournment of the Convention, he was free to buckle on his war harness again, and hastened to enter the field as a soldier of the army of General Houston. In this army he served until the close of the war, and the establishment of the independence of the Republic. On leaving Washington on the Brazos, at the close of the Convention, Mr. Waller had hastened to see after his family, whose home lay directly in the route of one division of the Mexican army, and on arriving there he found his family gone, and the Mexicans within a few miles of his house. One of his neighbors informed him that his family had left with that of Col. Wm. G. Hill. He at once set out to find them, overtook them, saw them safely across the San Jacinto river, and returned again to the army. The Mexicans revenged themselves for not finding the family at home when they called by sacking and pillaging the house and premises. Mayhap some of his old Mexican acquaintances of Velasco were in the command, and thus wreaked their revenge on one of the first men who dared to raise their embargo of 1832.

It may be mentioned as characteristic of the times that when Mr. Waller was alcalde of the municipality forming what are now known as the counties of Brazoria, Matagorda, Wharton and Fort Bend, he frequently commuted the punishment of offenders convicted of murder from death to whipping and branding, on account of his opposition on principle to capital punishment. In the exercise of this office he granted divorces, and exercised the general powers of a court of common law and equity, and it was indeed an office of great trust and responsibility. This was the only office filled by Judge Waller under the Mexican government, but with the establishment of the Republic, and frequently afterwards, he was called upon to serve the people. He was at once appointed by the congress president of the board of land commissioners, Theodore Bennett and A. C. Hyde being his associates, to grant certificates for land to all those who had stood firm and trusty in the past dangers and conflicts. This duty was performed with his usual exactness and fidelity, and in a manner to increase Judge Waller's estimate by the people as a public officer. He was again put in official harness in the year 1839, when he was appointed as government agent to select a site for the State capital, to lay off and plan the city, and to superintend and conduct the erection of the public buildings. The present capital, the city of Austin, was his choice, and the child of his skill and energy, now grown and matured, stands yet as the seat of government in Texas, a silent testimony of the modest but invaluable service rendered by Judge Waller to the young Republic.

The following is a copy of the official bond required of Judge Waller upon his assuming the duties of this position, the original bond being now in existence:

"REPUBLIC OF TEXAS, }
"County of Harrisburg. }

"Know all men by these presents, That we, Edwin Waller, Wm. T. Austin, Thos. G. Masterson, B. T. Archer, Thos. J. Green, Wm. Sims Hall, Samuel Whiting, John W. Hall, Louis P. Cook, William Pettus, W. B. Aldredge, and Charles Donoho, citizens of the Republic aforesaid, are held and firmly bound unto Mirabeau B. Lamar, President of the Republic of Texas, and his successors in office, in the just and full sum of one hundred thousand dollars, good and lawful money of said Republic, for the payment of which,

well and truly to be made, we bind ourselves, heirs and executors, administrators, and assigns, firmly by these presents, sealed with our seals, and dated this twelfth day of April, A. D. one thousand, eight hundred and thirty-nine.

The conditions of the above obligations are such that if the said Edwin Waller shall faithfully and honestly perform the duties of agent for the seat of government, agreeably to the provisions of 'An Act entitled an act for the permanent location of the seat of government,' approved January 14, 1839, to which he has been appointed and duly commissioned by the President, then this obligation shall cease and become null and void, otherwise to remain in full force and virtue.

(Signed)

"EDWIN WALLER, [SEAL]

"WM. T. AUSTIN, [SEAL]

"THOS. G. MASTERSON, [SEAL]

"B. T. ARCHER,

"THOS. J. GREEN,

"WM. G. HILL,

"WM. SIMS HALL,

"SAM'L WHITING,

"JOHN W. HALL,

"LOUIS P. COOK,

"WM. PETTUS,

"W. B. ALDRIDGE,

"CHARLES DONOHO,

"Approved.

(Signed)

"MIRABEAU B. LAMAR."

The penalty of the bond was one hundred thousand dollars, and it was found afterwards that during his performance of this duty, Judge Waller handled over \$400,000. If anything in the way of testimony to his integrity were needed, more than the list of names signed to his official bond, as sureties for the faithful execution of his important duties, it is certainly supplied by the following letters written to Judge Waller, one from John G. Chalmers, Secretary of the Treasury, and the other from W. H. Collier, Acting Auditor:

"CITY OF AUSTIN,

"TREASURY DEPARTMENT, October 7, 1841.

"*To Edwin Waller, Esq., State Government Agent.*

"SIR:—Enclosed you will receive your bond as government agent

for locating seat of government, and in surrendering up your obligation, I beg leave to express my great satisfaction at the full and satisfactory manner in which you have adjusted and settled up so extensive and complicated a matter, a circumstance rather unusual with the agents of this government.

"Yours most respectfully,
 (Signed) JOHN G. CHALMERS,
 "Secretary of Treasury."

"AUDITOR'S OFFICE, October 7, 1841.

"Edwin Waller, Esq.

"SIR:—You are hereby notified that your accounts as government agent in erection of public buildings at the city of Austin have all been examined, and I find you entitled to receive a credit for moneys disbursed to the amount of one hundred and fourteen thousand, two hundred and forty-two dollars and ninety-five cents, and that you are chargeable in addition to the amount now standing against you, viz.: \$113,550, with the sum of two thousand, two hundred and fifty dollars, leaving a balance in your favor of four thousand, one hundred and nineteen dollars and seventy-three cents.

"Very respectfully, your obedient servant,
 (Signed) H. H. COLLIER,
 "Acting Auditor."

Now, if the honorable Secretary of the Treasury was correct in his statement about government agents, which we may well believe from our experiences of the present day, certainly Judge Waller has reason to be proud of his record as an agent. The secretary, in styling the mission "an extensive and complicated matter," did not name all of the difficulties which surrounded Judge Waller in his position. For, to accomplish his undertaking, he had but two hundred laborers, a motley crew, drawn from all the nationalities of the world—of all colors, classes and characters, and \$113,000 in Texas scrip; he was poorly supplied with the articles and appliances necessary to his work; his employes were wild characters; many of them turbulent and restless under control, and many of them unfitted for the labor. There was little if any protection from the weather, to which all were more or less exposed in all its variations and changes; with a *cuisine* which often boasted no more than "beef, and corn bread

ground on a hand mill, and water from the spring"; exposed to frequent inroads and raids by the hostile Indians; and acting as surveyor, treasurer, secretary, director and president combined, he was certainly surrounded by an array of difficulties almost as hard to overcome as "an army with banners." In the face of these obstacles, the work was begun in May and finished in November of the same year, and in such manner as to elicit the commendations above referred to. Among other incidents of the season, a party of Indians came in one night to where some of the men were camped near a creek named from Judge Waller, and yet called Waller's creek, and carried off as trophies a brace of scalps of the workmen.

The public buildings erected at this time were all of plank and logs and made of native timber, and in consequence presented no very classically artistic appearance, but were serviceable and comfortable. The city was duly laid off, and, when mapped out, one-fourth of the lots in the plan were sold by Judge Waller for \$300,000, which was quite a snug amount of public funds to be handled by an officer under bond for only \$100,000.

The erection of public as well as private buildings rapidly progressed, and on the seventeenth day of October, 1839, President Lamar, with a portion of his cabinet, arrived in Austin. This was a day of great rejoicing among the citizens. The president was met a few miles from the city by a large procession, headed by General A. Sidney Johnston (who was then Secretary of War, but who had preceded the president), and General Edward Burleson. Judge Waller had been selected by the citizens to receive the president; and as it is believed that his address will be read with interest, it is inserted as follows:

"Having been called upon by my fellow citizens to welcome your excellency on your arrival at the permanent seat of government for the republic, I should have declined doing so on account of conscious inability, wholly unused as I am to public speaking, had I not felt that holding the situation here that I do, it was my duty to obey the call. With pleasure, I introduce to you the citizens of Austin, and at their request give you cordial welcome to a place which owes its existence as a city to the policy of your administration.

"Under your appointment, and in accordance with your direction, I came here in the month of May last for the purpose of preparing

proper accommodations for the transaction of the business of the government. I found a situation naturally most beautiful, but requiring much exertion to render it available for the purpose intended by its location. Building materials and provisions were to be procured, when both were scarce; a large number of workmen were to be employed in the lower country and brought up in the heat of summer, during the season when fever was rife; and when here, our labors were liable every moment to be interrupted by the hostile Indians, for whom we were obliged to be constantly on the watch; many-tongued rumor was busy with tales of Indian depredations, which seemed to increase in geometrical progression to her progress through the country. Many who were on the eve of immigrating were deterred by these rumors from doing so. Interested and malicious persons were busy in detracting from the actual merits of the place, and every engine of falsehood has been called into action to prevent its occupation for governmental purposes. Beauty of scenery, centrality of location and purity of atmosphere have been nothing in the vision of those whose views were governed by their purses, and whose ideas of fitness were entirely subservient to their desire for profit. Under all these disadvantageous circumstances, and more which I cannot now detail, a capitol, a house for the chief magistrate of the republic, and a large number of public offices were to be erected and in readiness for use in the short period of four months. Not discouraged at the unpromising aspect of affairs, I cheerfully undertook to obey your behests. Numbers of the present citizens of Austin immigrated hither, and with an alacrity and spirit of accommodation, for which they have my grateful remembrance, rendered us every assistance in their power.

"To the utmost extent of my abilities I have exerted myself and have succeeded in preparing such accommodations as I sincerely hope will prove satisfactory to your excellency and my fellow citizens of Texas.

"In the name of the citizens of Austin, I cordially welcome you and your cabinet to the new metropolis. Under your fostering care may it flourish, and aided by its salubrity of climate and its beauty of situation, become famous among the cities of the New World.

Judge Waller, after building the city, was elected the first mayor thereof and guided the municipal helm with as much credit as he

had managed his rough detachment of laborers. The attachment of these men to their old commander was afterwards exhibited in a serio-comic manner, which, with the accompanying circumstances, is well worthy of mention.

The party feeling between the "peace men" and "war men" in the days before the revolution had been very high and naturally produced partisanships and prejudices which outlived the issues that created them. As an "original war man," Judge Waller was early brought into direct and strong opposition to General Houston, who at first opposed war, so that when, after the war, Houston and Lamar were opposing candidates for presidential honors, Judge Waller took the stump for Lamar, who was an intimate personal friend, besides being of the same political faith. After the election of President Lamar, he nominated Judge Edwin Waller to the congress, as postmaster-general of the Republic. This nomination was very stoutly opposed by the Houston wing, and pointedly so by Governor Albert C. Horton of Matagorda, who had been an unsuccessful applicant for the position of government agent before mentioned. At the same time that the nomination was being discussed, Judge Waller's bill for erecting the State capitol was pending, and his opponents, especially Holmes of Matagorda, in commenting on the nomination, made this bill the basis for a severe personal attack upon Judge Waller, delivered from the floor of the house, by which Judge Waller was very much irritated. Having been privately assured by Harvey Kendrick, a most worthy and estimable man among the pioneers of the country, that the whole onslaught was conceived and matured by Governor Horton, Judge Waller demanded of him a personal explanation; and, upon Horton's denying any complicity in the matter and refusing to make any acknowledgement, Judge Waller attacked him *vi et armis, hilariter, celeriter*, and like another Rhoderick Dhu and Fitz James, they grappled each other, and "the engagement became general," as the army reporters used to say. They "tugged and strained" around the campers in front of the capitol, in sight of President Lamar, and the whole Texan congress, who took a recess to witness "the row," a sight which then as now, appealed to the deepest emotions of the Texan character. At first, Governor Horton, by his superior stature and strength, inflicted considerable punishment on his antag-

onist, who, however, struggled manfully for victory, while the congressmen stood around shouting riotously and boisterously, encouraging first one gladiator and then the other. This was rather undignified in them, but we must remember that the congress then was in its boyhood, and had not forgotten primitive simplicity and natural feeling.

At this stage of the game, however, the president was very excitedly and clamorously calling upon the members to "part them—separate the combatants;" but both houses ignored his veto, and yelled and laughed more vigorously than ever, or contented themselves with observing an "attentive neutrality." Now, although Horton had the muscle above Judge Waller, yet he was inferior in another important ingredient, to wit, "wind," and it was not long before the latter's superior endurance enabled him to turn the tide of battle, and Governor Horton at the same time, and to give the governor back his compliments with interest. Seeing this, and perhaps thinking he had supported the presidential dignity under trying circumstances sufficiently long, President Lamar brandished his hat fiercely in the air and shouted lustily, "Do not interrupt them, let them fight, let them arrange it without interference;" from which one would conclude that Judge Waller had at least the ear of the executive department in the issue.

The uproar had penetrated to the camp of Judge Waller's former employes, before mentioned, and the rumor reached them that the congress was murdering, maiming, or hanging their old "boss." They gathered like Clan Alpine, and "fierce as ten furies, terrible as hell," they poured in a stream to the capitol, in numbers enough to have "cleaned up" both houses and the executive and judiciary besides.

Perhaps the government of Texas was never in such actual danger of *bouleversement* as at this critical moment, when this battalion of *outré* stragglers "rallied on the reserve" to protect the "boss." One burly son of the Teutonic race leveled an argument *a posteriori* at Governor Horton, and others rushing in, the combatants were for the first time effectually separated, and when the judge arose from the sward, flushed and tattered, and seemingly "bleeding at every vein," the interveners raised a war-whoop which made the welkin ring. They asked to be informed of the names of his persecutors, who

was the man, and where he was, and in their excitement offered to pull down the capitol and thrash the congress, jointly and severally, as a slight testimonial of their affection for their old leader. Several speeches were required to pacify them, and they were not entirely satisfied that it was not their duty to preserve the "balance of power" by razing the building they had erected, and thus proroguing the congress until Judge Waller himself recovered breath enough to address them and explain the situation. Upon this they retired mollified, no doubt feeling that they had earned the gratitude of the members by sparing them. The passage-at-arms between Houston and Waller ended there, and they afterwards became warm personal friends, in verification of the sentiment of the old general in the *Lady of Lyons*, who always felt so much more affection for a man after fighting with him.

The ballot in the Senate on Waller's nomination resulted in an even vote, and the President of the Senate, Anson Jones, gave the casting vote for Waller, who was accordingly declared postmaster-general of the republic. This was a compliment to the ability of Judge Waller, inasmuch as Anson Jones was one of the Houston sympathizers, and was afterwards elected president through the influence of Houston and his party. Judge Waller retained his position of postmaster-general but a short time, when he retired from active political life to seek rural ease and domestic comfort.

In 1840, however, Judge Waller was an active participant in another of the noted and dangerous scenes of that period, namely, the Plum creek fight. An army of Comanche Indians, about four hundred in number, had extended one of their raids coastward, and reached the town of Linnville. They set fire to and burned down the town, leaving it in complete ruins, from which it never revived. First having plundered all the stores and warehouses, murdered several of the citizens, and carried others off into captivity, among whom was a lady, a Mrs. Watts, who had but lately become a bride and whose husband was butchered in her sight.

Edward Burleson, Felix Huston, Ben McCulloch, Edwin Waller and others, assembled together what force they could, on hearing of this outrage, and started on the war-trail to intercept the marauders. In all, some seventy men from the vicinity of Austin, Victoria, Gonzales, and Seguin were in the company. The Indians were loaded down

with spoils and booty, to which they clung with great tenacity of purpose. Among other articles many of them had brought off blocks of gay and gaudy colored ribbon, and in the hurry of pursuit one end of the ribbon would become loosened and it would gradually unroll from the block and trail out behind the fleeing savages. It was indeed a ludicrous scene, the painted savages scouring across the prairies in terror, on their wild ponies, "bloody with spurring, fiery red with speed," and the lengths of glaring ribbons trailing behind them like the tail of a comet and hanging out as signals to the pursuers of the track of the Indians, and as proofs of their hellish mission lately consummated. When the whites came up with the Indians, the contest was short. Many of the latter were killed—nine in one slough where they had "bogged down," and all of their plunder, including dry goods and quite a number of mules and horses, was recaptured. Among the captives released by this victory were two white ladies, the Mrs. Watts spoken of and another lady whose name is forgotten, and a negro woman.

After the battle, the conquerors slept on the field, and with them eight or ten friendly Indians. These had busied themselves in their own fashion in looking after commissary supplies, and brought into camp quite a fine lot of "Comanche beef," to wit: Indian flesh. They attached especial importance to roast hands, one of which, nicely "browned" and done to a "crackling," they offered to Judge Waller, but he modestly yet firmly declined the savory morsel. The savages evidently pitied his ignorance of the virtues of roast Indian and devoured their whole supply with infinite gusto. One would think there could hardly be a doubt of the disputed assertion that the Carancahuas were cannibals after this *déjeûne à la fourchette*, made of "hot hand," so positively proved on them.

Although Judge Waller was solicited by the people of Travis county to allow his name to go before the people of that district as a candidate for congress, yet remaining firm in his intention of abandoning public life, and honors, he declined the nomination. Notwithstanding this, however, he came very near being elected by the voluntary votes of the district, which was a much more pleasant compliment than if he had been, after the annoyances and labor of a hard canvass, really elected.

After his retirement from the stirring scenes of his younger days,

Judge Waller filled for many years the office of chief justice of Austin county, in which he lives, and presided in his chair with such judgment and energy as to lend to the office some of the dignity intended to attach to it, but which, sooth to say, has been seldom seen there. His judgment was not only appreciated by the people of the county at large, but in the higher courts; his decisions in important matters, reviewed on appeal, were invariably affirmed.

From this post Judge Waller was again summoned to the front when the second revolution vibrated its war-cry through Texas. He was again sent to represent his people in convention, and with the same love of his State which animated him as a young man, in the convention which separated Texas from Mexico he, in his old age, labored in the convention which declared the ties between Texas and the United States sundered forever. When the Ordinance of Secession was passed by the convention, Judge Edwin Waller was the first to sign it. On the same list is the name of John A. Wharton, a descendant of those Whartons with whom Judge Waller's early history is so intimately interwoven.

This was his last political act, and is perhaps the only unsuccessful public deed in his interesting record. Since then Judge Waller has lived the life of a Southern gentleman, surrounded by those who delight to honor him. His residence is in Austin county, eighteen miles from Bellville, the county seat, where he superintends his plantation. Judge Waller was born in Spottsylvania county, Virginia, in 1800, and is therefore now seventy-four years old, though he appears younger, and is still active and strong in business life. He is with us as a connecting link with the past; his history, his name, is identified with the most interesting, the most chivalric period of Texan history, and with the lives of her best beloved sons; Lamar, Travis, Houston, Wharton, Jack, Austin, "have gone and left the world behind," and there are but a few of their fellow-heroes of that day like Edwin Waller left with us to remind us that

"There were giants in those days
 men who of old were
Men of Renown."